

Gateway Tower West  
15 West South Temple  
Suite 1200  
Salt Lake City, Utah 84101-1531  
801.257.1900  
801.257.1800 (Fax)  
www.swlaw.com

Denise A. Dragoo, Esq.  
801-257-1959  
ddragoo@swlaw.com

**RECEIVED**

**FEB 21 2012**

**DIV. OF OIL, GAS & MINING**

DENVER  
LAS VEGAS  
LOS ANGELES  
LOS CABOS  
ORANGE COUNTY  
PHOENIX  
SALT LAKE CITY  
TUCSON

February 21, 2012

Director John R. Baza  
Hearing Officer  
Utah Division of Oil, Gas and Mining  
1594 West North Temple  
Salt Lake City, Utah 84116

***RE: Informal Adjudication of Living Rivers Protest of Tentative Decision to Approve Red Leaf Resources Notice of Intention to Commence Large Mine Operations for the Southwest #1 Mine, M/047/0103***

Dear Director Baza:

On behalf of Red Leaf Resources, Inc ("RLR") we are responding to the Division's letter dated February 9, 2012 providing notice of hearing in this matter. The purpose of the hearing is to determine whether the Living River's protest presents objections of substance under Utah Code § 40-8-14(d)(iii). Although this provision suggests that the Division hold a formal adjudicative proceeding, the Division asks the parties to stipulate to the conversion of the hearing to an informal adjudication pursuant to Utah Code § 63G-4-202(3). RLR is willing to so stipulate but requests that the stipulation set forth the following understanding of the scope of the informal adjudication:

1. The Division will proceed with an informal adjudication of Living River's protest pursuant to the Utah Administrative Procedures Act, Utah Code § 63G-4-101 et seq. and the rules implementing that provision at Utah Adm. R. 641.
2. Pursuant to Utah Code § 63G-4-202(3) and with the agreement of all Parties, the hearing in this matter will be conducted before the Division as an informal adjudicative proceeding following the procedures set forth at Utah Code § 63G-4-203 and Utah Admin. R641-114-200. In the event of a conflict between the Utah Administrative Procedures Act and the Utah Code § 40-8-1 et seq, and implementing rules at Utah Admin. R647, the Utah Administrative Procedures Act shall govern.

Director John R. Baza  
February 21, 2012  
Page 2

---

3. The parties to this proceeding are limited to Living Rivers, RLR and the Division (herein "**Parties**"). Only these Parties will be permitted to testify, present evidence and comment on the issues. *See* Utah Code § 63G-4-203(1) (the term "party" is restricted to the administrative agency (DOGM), all respondents and all persons authorized to participate. Utah Code § 63G-4-103(f)). Intervention by any other Party is prohibited. Utah Code § 63G-4-203(1)(g)(h).
4. The Division's Conditional Tentative Approval was published on October 20, 2011, and the public comment period ended on November 28, 2011. Living Rivers timely protested the Division's Tentative Approval by letter dated November 18, 2011 ("**Protest**").
5. Timely notice of hearing regarding Living River's Protest was provided to all Parties by the Division's letter dated February 9, 2012 pursuant to Utah Code § 63G-4-203(1)(d).
6. The scope of the informal conference is limited to whether the issues raised in Living River's Protest presents matters of substance under Utah Code Ann. § 40-8-14(d)(iii). Discovery is not allowed. Utah Code § 63G-4-203(1)(e). The parties have access to the agency records and files. Utah Code § 63G-4-203(1)(f). No recording or formal transcript of the hearing will be taken by the Parties.
7. The Division's decision will be issued within a "reasonable time" following hearing based on the facts appearing in the agency's files and the facts presented in evidence at the hearing. Utah Code § 63G-4-203(1)(j).

We appreciate your assistance in this matter. Let me know if you would like us to draft a stipulation for review and approval by the Parties.

Very truly yours,



Denise A. Dragoo

cc Steve Alder, Esq.  
Emily Lewis, Esq.  
Rob Dubuc, Esq.  
Dr. Laura Nelson, RLR  
Fran Amendola, NorWest  
Robert J. Bayer, JBR Environmental